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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,006	12/20/2000	Barbara O. Sauer	KCC-14,083	7226

35844 7590 12/02/2003

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EXAMINER

REICHLE, KARIN M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 12/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/745,006

Applicant(s)

SAUER, BARBARA O.

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7 and 9-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7 and 9-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9-12-03 has been entered.

Claim Objections

2. Claims 9-14 are objected to because of the following informalities: in claim 9, last two lines, "are ... pocket and" should be deleted, see remainder of the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 2-7, 9-14 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Reynolds et al.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C.

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102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

In regard to claims 3, 6, 9, 13, and 18: See Figures 1-4, the elongated material is 20, the backsheet is 44, the topsheet is 46, the absorbent layer is 44, the flap sheet or pocket sheet is 72, the pleats are 88, 92 and 90, 94, the pocket is 106, the point bonds are 82, see paragraph 33 and 39. It is noted that the claims do not require the flap sheet be directly joined to the liner.

In regard to claims 2 and 10: "a entire width" has not been defined as the lateral edge to lateral edge width, the width of the pocket 106 does traverse a width of the back region across the width's entirety.

In regard to claims 4-5, 7, 11-12 and 14: see paragraphs 38 and 43.

5. Claims 2-3, 6-7, 9-10, 13-14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schaar '150.

In regard to claims 2-3, 6, 9-10, 13, and 18: See Figures 5-8, the elongated material is 28, 32, 36, the backsheet is 28, the topsheet is 32, the absorbent layer is 36, the flap sheet or pocket sheet is 48, the pleats are A, B and D, E, the pocket is defined by A, B, C, D, E, see col. 1, lines 57-60, col. 4, lines 60-64, col. 5, lines 36-58, i.e. the pocket is defined by the pleats between sheet 48 and liner 32, and the point bonds are 58.

In regard to claims 7 and 14: see Figure 2, 48 and col. 3, lines 43-44.

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Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being obvious over Foreman in view of Igaue et al.

Applicant claims forming a multilayer material of rectangular configuration, removing portions, i.e. producing a final hourglass configuration, and forming pleats in the flap sheet proximate the back region. See Figures 1 and 3, column 1, lines 55-60, column 3, lines 22-55, column 5, lines 61-68, column 7, lines 1-29, column 8, lines 42-63, column 9, lines 65 et seq, column 10, line 54 - column 11, line 12, column 12, lines 21-42, column 13, lines 15-35, column 14, lines 58-62 (and thus column 7, lines 31-39 of Buell), column 15, line 11 - column 16, line 25, i.e. Foreman teaches a flap sheet 274 that can have a spacing member 77, i.e. elastic member, which is secured to the flap while the flap is pleated with the pleats disposed along pocket edge, i.e. 266, so that it is contractible and stretchable in the transverse direction of the diaper, i.e. the pleats are oriented in a longitudinal direction of the flap and article in order to provide such direction of contractibility. The Foreman patent does not teach the rectangular configuration or removing portions, i.e. forming an hourglass configuration, steps. However, see column 3, line 60-col. 4, lines 12 and Figures 7-8 of Igaue et al. To employ a rectangular material which has a portion removed to create a final hourglass shape as taught by ~~Fries, Fries et al~~ and Igaue et al on

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the Reynolds device would have been obvious to one of ordinary skill in the art in view of the recognition that such would provide more efficient manufacture, i.e. easier to align rolls of material and shape than align already shaped material, and the desirability of efficiency in manufacture of any article. In so doing, upon definition and identification of the portion of the material which is the rear portion, i.e. removing portions, attachment of tabs steps etc, the pleats in the flap sheet are necessarily "formed" in the region they are proximately attached to, i.e. the rear portion, whether the flap sheet is pleated prior to or after the removing step. The claims do not require pleating an unpleated flap sheet after removing the portions step.

8. Claims 4-5 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaar '150 in view of Foreman '677.

See 48, 30, 32 and 36 in Figure 2 of Schaar. Also see col. 3, lines 43-50 of Schaar.

Applicant claims at least one of the flap sheet, backsheet and liner or flap sheet of nonwoven material which Schaar does not specifically set forth. However see Foreman col. 7, lines 1-22. To employ a nonwoven as taught by Foreman on the Schaar device as the liner, and thereby also the flap, would be obvious to one of ordinary skill in the art in view of the recognition that such are known as suitable liquid pervious materials for topsheets and the desire of Schaar to employ a topsheet of liquid pervious material.

Response to Arguments

9. Applicant's arguments have been carefully considered but are either deemed moot in that the issues discussed have not be reraised or are deemed nonpersuasive for the reasons discussed

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supra. Specifically with regard to the prior art rejections based on Reynolds et al and Schaar Applicants remarks are deemed narrower than the claim language and the teachings of the prior art, see prior art rejection supra, i.e. the prior art teaches the claimed invention.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Sayama reference already of record also teaches a pocket sheet. The other references teach various methods and pleats.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to K. M. Reichle whose telephone number is 703-308-2617. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo, can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

K.M. Reichle
KARIN REICHLÉ
PATENT EXAMINER